

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARGARET JOHNSON, ESQ.,

Plaintiff,

- v -

MEDISYS HEALTH NETWORK, et al.,

Defendants.
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MEMORANDUM

CV-10-1596 (ERK)(VVP)

The defendant David P. Rosen has objected to one aspect of the Report and Recommendation (“R&R”) issued by me in this matter on April 28, 2011, and Judge Korman has referred the objection to me. Specifically, the defendant is concerned about a statement at page 31 of the R&R that certain allegations in the plaintiff’s complaint “may well establish a hostile work environment claim,” and a footnote on the same page asserting that the defendants “appear to concede” that the allegations do establish such a claim. He contends that these statements in the R&R can be interpreted as a concession by the defendant that the plaintiff has proved her claim. Although I find it highly doubtful that any knowledgeable observer would draw such a conclusion given that this action is at the pleading stage and the defendant has not yet even filed an answer to the complaint, the court’s choice of language was nevertheless incorrect. The more correct phrasing of the concept is that the allegations “may well adequately plead a hostile work environment claim,” and this memorandum adopts that clarification of the R&R.

SO ORDERED:

Viktor V. Pohorelsky

VIKTOR V. POHORELSKY
United States Magistrate Judge

Dated: Brooklyn, New York
September 8, 2011